

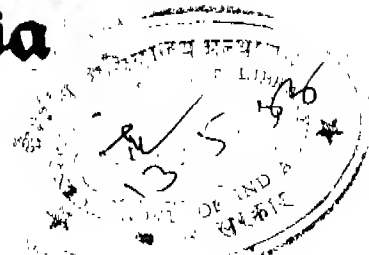


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असाधारण
EXTRAORDINARY

भाग II—खण्ड 1
PART II—Section 1

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY



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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन
के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed
as a separate compilation

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 28th December, 1987/Pausa 7, 1909 (Saka)

The following Act of Parliament received the assent of the President on the 23rd Decemebr, 1987, and is hereby published for general information:—

THE NATIONAL HOUSING BANK ACT, 1987

No. 53 OF 1987

[23rd December, 1987.]

An Act to establish a bank to be known as the National Housing Bank to operate as a principal agency to promote housing finance institutions both at local and regional levels and to provide financial and other support to such institutions and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Thirty-eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the National Housing Bank Act, 1987.
- (2) It extends to the whole of India.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates

Short
title,
extent
and
com-
mence-
ment.

may be appointed for different provisions of this Act and any reference in any provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "Board" means the Board of Directors of the National Housing Bank referred to in section 6;

(b) "Chairman" means the Chairman of the Board appointed under section 6;

(c) "director" means a director appointed under section 6;

(d) "housing finance institution" includes every institution, whether incorporated or not, which primarily transacts or has as its principal object, the transacting of the business of providing finance for housing, whether directly or indirectly;

(e) "Managing Director" means the Managing Director appointed under section 6;

(f) "National Housing Bank" means the National Housing Bank established under section 3;

(g) "notification" means a notification published in the Official Gazette;

(h) "prescribed" means prescribed by regulations made under this Act;

(i) "Reserve Bank" means the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934;

2 of 1934.

(j) words and expressions used herein and not defined but defined in the Reserve Bank of India Act, 1934, shall have the meanings respectively assigned to them in that Act;

2 of 1934.

(k) words and expressions used herein and not defined either in this Act or in the Reserve Bank of India Act, 1934, but defined in the Banking Regulation Act, 1949, shall have the meanings respectively assigned to them in the Banking Regulation Act, 1949.

2 of 1934.

10 of 1949.

CHAPTER II

ESTABLISHMENT OF THE NATIONAL HOUSING BANK AND CAPITAL THEREOF

Establishment and incorporation of National Housing Bank.

3. (1) With effect from such date as the Central Government may, by notification, appoint, there shall be established for the purposes of this Act, a bank to be known as the National Housing Bank.

(2) The National Housing Bank shall be a body corporate with the name aforesaid having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property and to contract, and may, by that name, sue and be sued.

(3) The head office of the National Housing Bank shall be at Bombay or at such other place as the Reserve Bank may, by notification, specify.

(4) The National Housing Bank may establish offices, branches or agencies at any place in India, and with the previous approval of the Reserve Bank, at any place outside India.

4. The authorised and paid up capital of the National Housing Bank shall be one hundred crores of rupees and shall be subscribed by the Reserve Bank:

Capital

Provided that the Central Government may, in consultation with the Reserve Bank, by notification, increase the said capital up to five hundred crores of rupees and the capital so increased shall also be subscribed by the Reserve Bank.

CHAPTER III

MANAGEMENT OF THE NATIONAL HOUSING BANK

5. (1) The general superintendence, direction and management of the affairs and business of the National Housing Bank shall vest in the Board of Directors, which shall exercise all powers and do all acts and things, which may be exercised or done by the National Housing Bank.

Management.

(2) Subject to the provisions of this Act, the Board, in discharging its functions, shall act on business principles with due regard to public interest.

(3) Subject to the provisions of sub-section (1) and save as otherwise provided in the regulations made under this Act,—

(a) the Chairman, if he is holding offices both as the Chairman and the Managing Director, or

(b) the Managing Director, if the Chairman is absent,

shall also have powers of general superintendence, direction and management of the affairs and business of the National Housing Bank and may also exercise all powers and do all acts and things which may be exercised or done by the National Housing Bank and shall act on business principles with due regard to public interest.

(4) The Managing Director shall, in the discharge of his powers and functions, follow such directions as the Chairman may give.

(5) In the discharge of its functions under this Act, the National Housing Bank shall be guided by such directions in matters of policy involving public interest as the Central Government, in consultation with the Reserve Bank, or the Reserve Bank, may give in writing.

6. (1) The Board of Directors of the National Housing Bank shall consist of the following, namely:—

Board of Directors.

(a) a Chairman and a Managing Director;

Provided that the same person may be appointed as Chairman and as Managing Director;

(b) three directors from amongst the experts in the field of housing, architecture, engineering, sociology, finance, law, management and corporate planning or in any other field, special knowledge of which is considered useful to the National Housing Bank;

(c) three directors, who shall be persons with experience in the working of institutions involved in providing funds for housing or engaged in housing development;

(d) two directors from out of the directors of the Reserve Bank;

(e) three directors from amongst the officials of the Central Government;

(f) two directors from amongst the officials of the State Government.

(2) The Chairman, the Managing Director and other directors excluding the directors referred to in clause (d), shall be appointed by the Central Government in consultation with the Reserve Bank and directors referred to in clause (d) shall be nominated by the Reserve Bank.

Terms of
office of
Chair-
man,
Managing
Director
and other
directors,
service
condi-
tions, etc.

7. (1) The Chairman and the Managing Director shall hold office for such term, not exceeding five years and shall receive such salary and allowances and be governed by such terms and conditions of service as the Central Government may, in consultation with the Reserve Bank, specify and shall be eligible for re-appointment:

Provided that the Chairman or, as the case may be, the Managing Director shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

(2) The directors referred to in clauses (b) and (c) of sub-section (1) of section 6 shall hold office for a term of three years:

Provided that any such director shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

(3) The Central Government may, in consultation with the Reserve Bank, remove the Chairman or the Managing Director, or any other director referred to in sub-section (2), at any time before the expiry of his term of office after giving him a reasonable opportunity of showing cause against the proposed removal.

(4) Notwithstanding anything contained in sub-sections (1) and (3), the Central Government, in consultation with the Reserve Bank, shall have the right to terminate the term of office of the Chairman or, as the case may be, the Managing Director, at any time before the expiry of the term specified under sub-section (1), by giving him notice of not less than three months in writing or three months' salary and allowances in lieu thereof and the Chairman or the Managing Director, as the case may be, shall also have the right to relinquish his office at any time before the expiry of the term specified under sub-section (1), by giving to the Central Government notice of not less than three months in writing or three months' salary and allowances in lieu thereof.

(5) The directors shall be paid such fees and allowances as may be prescribed for attending the meetings of the Board or of any of its committees and for attending to any other work of the National Housing Bank:

Provided that no such fee shall be payable to any director, who is an official of the Government or a director of the Reserve Bank.

Disquali-
fications.

8. No person shall be a director of the Board, if he—

(a) is, or becomes of unsound mind and has been so declared by a competent court; or

(b) is or has been convicted of any offence which, in the opinion of the Central Government, involves moral turpitude; or

(c) is, or at any time has been, adjudicated as insolvent or has suspended payment of his debts or has compounded with his creditors; or

(d) has, for any reason, been removed or dismissed from the service of—

(i) the Government, or

(ii) the Reserve Bank, the State Bank or any other bank, or

(iii) any public financial institution, or state financial corporation, or

(iv) any other corporation owned or controlled by the Government.

9. (1) If a director—

(a) becomes subject to any of the disqualifications mentioned in section 8; or

(b) is absent without leave of the Board for three or more consecutive meetings thereof,

Vacation
and re-
signa-
tion of
office
by direc-
tors.

his seat shall thereupon become vacant.

(2) Any director may resign his office by giving notice thereof in writing to the authority that appointed or, as the case may be, nominated him and on his resignation being accepted by such authority or if his resignation is not sooner accepted, on the expiry of three months from the receipt thereof by such appointing authority, he shall be deemed to have vacated his office.

10. If the Chairman, or as the case may be, the Managing Director, is by infirmity or otherwise rendered incapable of carrying out his duties or is absent on leave or otherwise, in circumstances not involving the vacation of his appointment, the Central Government may, appoint another person to act in his place during his absence.

Casual
vacancy
in the
office of
Chair-
man or
Managing
Director.

11. (1) The Board shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings, as may be prescribed.

Meetings
of
Board.

(2) The Chairman, or, if for any reason he is unable to attend a meeting of the Board, the Managing Director, or, in the event of both the Chairman and the Managing Director being unable to attend a meeting, any other director nominated by the Chairman in this behalf and in the absence of such nomination, any director elected by the directors present from among themselves at the meeting, shall preside at the meeting.

(3) All questions which come up before any meeting of the Board shall be decided by a majority of votes of the directors present and voting, and in the event of an equality of votes, the Chairman, or, in his absence, the person presiding, shall have a second or casting vote.

Execu-
tive Com-
mittee
and
other
commit-
tees.

12. (1) The Board may constitute an Executive Committee consisting of such number of directors as may be prescribed.

(2) The Executive Committee shall discharge such functions as may be prescribed, or, as may be delegated to it, by the Board.

(3) The Board may constitute such other committees, whether consisting wholly of directors or wholly of other persons or partly of directors and partly of other persons as it thinks fit for such purposes, as it may decide and any committee so constituted shall discharge such functions as may be delegated to it by the Board.

(4) The Executive Committee or any other committees constituted under this section shall meet at such times and places and shall observe such rules of procedure in regard to transaction of business at its meetings, as may be prescribed.

Director
of Board
or member
of commit-
tee thereof
not to
partici-
pate in
meetings
in cer-
tain
cases.

13. Any director of the Board or any member of a committee, who has any direct or indirect pecuniary interest in any matter coming up for consideration at a meeting of the Board or a committee thereof, shall, as soon as possible after relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and the disclosure shall be recorded in the minutes of the Board, or the committee, as the case may be, and the director or member shall not take any part in any deliberation or decision of the Board or the committee with respect to that matter.

CHAPTER IV

BUSINESS OF THE NATIONAL HOUSING BANK

Business
of the
National
Housing
Bank.

14. Subject to the provisions of this Act, the National Housing Bank may transact all or any of the following kinds of business, namely:—

(a) promoting, establishing, supporting or aiding in the promotion, establishment and support of housing finance institutions;

(b) making of loans and advances or rendering any other form of financial assistance whatsoever to housing finance institutions and scheduled banks;

(c) subscribing to or purchasing stocks, shares, bonds, debentures and securities of every other description;

(d) guaranteeing the financial obligations of housing finance institutions and underwriting the issue of stocks, shares, bonds, debentures and securities of every other description of housing finance institutions;

(e) drawing, accepting, discounting or rediscounting, buying or selling and dealing in bills of exchange, promissory notes, bonds, debentures, hundies, coupons and other instruments by whatever name called;

(f) forming, promoting and managing subsidiaries for carrying out all or any of its functions under this Act;

(g) undertaking research and surveys on construction techniques and other studies relating to or connected with shelter, housing and human settlement;

(h) formulating one or more schemes, for the purpose of mobilisation of resources and extension of credit for housing;

(i) formulating one or more schemes; for the economically weaker sections of society which may be subsidised by the Central Government or any State Government or any other source;

(j) organising training programmes, seminars and symposia on matters relating to housing;

(k) providing guidelines to the housing finance institutions to ensure their growth on sound lines;

(l) providing technical and administrative assistance to housing finance institutions;

(m) co-ordinating with the Life Insurance Corporation of India, the Unit Trust of India, the General Insurance Corporation of India and other financial institutions, in the discharge of its overall functions;

(n) exercising all powers and functions in the performance of duties entrusted to the National Housing Bank under this Act or under any other law for the time being in force;

(o) acting as agent of the Central Government, the State Government or the Reserve Bank or of any authority as may be authorised by the Reserve Bank;

(p) any other kind of business which the Central Government may, on the recommendation of the Reserve Bank, authorise;

(q) generally, doing of all such matters and things as may be incidental to or consequential upon the exercise of its powers or the discharge of its duties under this Act.

15. (1) The National Housing Bank may, for the purpose of carrying out its functions under this Act—

(a) issue and sell bonds and bedentures with or without the guarantee of the Central Government, in such manner and on such terms as may be prescribed;

(b) borrow money from the Central Government and from any other authority or organisation or institution approved by that Government on such terms and conditions as may be agreed upon;

(c) accept deposits repayable after the expiry of a period which shall not be less than twelve months from the date of the making of the deposit on such terms as may generally or specially be approved by the Reserve Bank;

(d) borrow money from the Reserve Bank—

(i) repayable on demand or on the expiry of fixed periods not exceeding eighteen months from the date of the making of loan or advance, on such terms and conditions including the terms relating to security and purpose as may be specified by the Reserve Bank;

Borrowings and acceptance of deposits by National Housing Bank.

(ii) out of the National Housing Credit (Long Term Operations) Fund established under section 46D of the Reserve Bank of India Act, 1934 or any of the purposes specified in that section;

2 of 1934.

(e) receive for services rendered, such remuneration, commission, commitment charges, consultancy charges, service charges, royalties, premia, licence fees and any other consideration of whatever description;

(f) receive gifts, grants, donations or benefactions from Government or any other source.

(2) The Central Government may, on a request being made to it by the National Housing Bank, guarantee the bonds and debentures issued by the National Housing Bank as to the repayment of principal and the payment of interest at such rate as may be fixed by that Government.

Loans in
foreign
cur-
rency.

16. (1) Notwithstanding anything contained in the Foreign Exchange Regulation Act, 1973 or in any other law for the time being in force relating to foreign exchange, the National Housing Bank may, for the purpose of making loans and advances under this Act, borrow in such manner and on such conditions as may be prescribed in consultation with the Reserve Bank and with the previous approval of the Central Government, foreign currency from any bank or financial institution in India or elsewhere.

46 of 1973.

(2) The Central Government may, where necessary, guarantee any loan taken by the National Housing Bank under sub-section (1) or any part thereof as to the repayment of principal and the payment of interest and other incidental charges.

Power to
transfer
rights.

17. The rights and interests of the National Housing Bank (including any other rights incidental thereto) in relation to any loan or advance made, or any amount recoverable, by it, may be transferred by the National Housing Bank, either in whole or in part, by the execution or issue of any instrument or by the transfer of any instrument by endorsement, or in any other manner in which the rights and interests in relation to such loan or advance may be lawfully transferred, and the National Housing Bank may, notwithstanding such transfer, act as the trustee within the meaning of section 3 of the Indian Trusts Act, 1882, for the transferee.

2 of 1882.

Power to
acquire
rights.

18. The National Housing Bank shall have the right to acquire, by transfer or assignment, the rights and interests of any housing finance institution (including any other rights incidental thereto) in relation to any loan or advance made, or any amount recoverable by such institution, either in whole or in part, by the execution or issue of any instrument or by the transfer of any instrument or in any other manner in which the rights and interests in relation to such loan or advance may be lawfully transferred.

Power to
impose
condi-
tions for
accom-
modation.

19. In entering into any transaction under this Chapter with any borrowing housing finance institution, the National Housing Bank may impose such conditions as it may think necessary or expedient for protecting the interests of the National Housing Bank.

20. Notwithstanding anything to the contrary contained in any agreement, the National Housing Bank may, by notice in writing, require any borrowing housing finance institution to discharge forthwith in full its liabilities to the National Housing Bank—

Power to call for repayment before agreed period.

(a) if it appears to the Board that false or misleading information in any material particular was given in the application for the loan or advance; or

(b) if the borrowing housing finance institution has failed to comply with any of the terms of the agreement with the National Housing Bank in the matter of the loan or advance; or

(c) if there is a reasonable apprehension that the borrowing housing finance institution is unable to pay its debts or that proceedings for liquidation may be commenced in respect thereof; or

(d) if for any reason, it is necessary so to do to protect the interests of the National Housing Bank.

21. (1) The National Housing Bank shall have free access to all such records of any housing finance institution which seeks to avail of any credit facilities from the National Housing Bank and to all such records of any person who seeks to avail of any credit facilities from such housing finance institution, the perusal of which may appear to the National Housing Bank to be necessary in connection with the providing of finance or other assistance to such housing finance institution or the refinancing of any loan or advance made to such person by that housing finance institution.

National Housing Bank to have access to records.

(2) The National Housing Bank may require any institution or person referred to in sub-section (1), to furnish to it copies of any of the records referred to in that sub-section and the institution or the person, as the case may be, shall be bound to comply with such requisition.

22. Notwithstanding anything to the contrary contained in any other law for the time being in force, the validity of any loan or advance made by the National Housing Bank in pursuance of the provisions of this Act shall not be called in question merely on the ground of non-compliance with the requirements of such other law or of any resolution, contract, or any instrument regulating the constitution of the borrowing housing finance institution:

Validity of loan or advance not to be questioned.

Provided that nothing in this section shall enable any company or co-operative society to obtain any loan or advance where the instrument relating to the constitution of such company or co-operative society does not empower such company or co-operative society so to do.

23. The National Housing Bank shall not make any loan or advance on the security of its own bonds or debentures.

National Housing Bank not to make loans or advances against its own bonds or debentures.

Power to
inspect.

24. (1) The National Housing Bank may at any time and shall, on being directed so to do by the Reserve Bank, cause an inspection to be made by one or more of its officers of any housing finance institution to which the National Housing Bank has made any loan or advance or granted any other financial assistance, and its books, accounts and other documents; and the National Housing Bank shall supply to the housing finance institution a copy of its report on such inspection.

(2) It shall be the duty of every officer, employee or other person or persons incharge of the whole or part of the affairs of the housing finance institution to produce to any officer making an inspection under sub-section (1), all such books, accounts and other documents in his custody or power and to furnish within such time as the said officer may specify, any statements, information relating to the affairs of the housing finance institution as the said officer may require of him.

Power to
collect
credit
informa-
tion.

25. (1) The National Housing Bank may, for the purpose of the efficient discharge of its functions under this Act, at any time direct any housing finance institution to submit to it credit information in such form and within such time as may be specified by the National Housing Bank from time to time.

(2) Every housing finance institution shall, notwithstanding anything to the contrary contained in any law for the time being in force or in any instrument regulating the constitution thereof or in any agreement executed by it, relating to the secrecy of its dealings with its constituents, be bound to comply with any directions issued under sub-section (1).

(3) The National Housing Bank may, for the purpose of the efficient discharge of its functions under this Act collect from the Central and State Governments, local authorities, the Reserve Bank, any bank or such financial or other institutions as the Reserve Bank may specify in this behalf, credit information or other information.

Explanation.—For the purposes of this section and section 26, credit information means any information relating to—

(i) the amount of loans and advances and other credit facilities granted for the purpose of housing;

(ii) the nature of security taken for such loans, advances or other credit facilities;

(iii) the guarantees furnished; and

(iv) any other information which has a bearing on the credit-worthiness of the borrower.

Power to
publish
informa-
tion.

26. The National Housing Bank, if it considers it in the public interest so to do, may publish any credit information or other information obtained by it under this Act, in such consolidated form or in any other form as it thinks fit.

Ad-
visory
services.

27. The National Housing Bank may provide advisory services to the Central and State Governments, local authorities and other agencies connected with housing, in respect of—

(a) formulation of overall policies aimed at promoting the growth of housing and housing finance institutions;

(b) legislation relating to matters having a bearing on shelter, housing and human settlement.

CHAPTER V

PROVISIONS RELATING TO HOUSING FINANCE INSTITUTIONS RECEIVING DEPOSITS

2 of 1934.

28. In this Chapter the term 'deposit' shall have the meaning assigned to it in section 451 of the Reserve Bank of India Act, 1934.

Definition of deposit.

29. (1) The provisions of this Chapter shall not apply to deposits accepted by a housing finance institution which is a firm or an unincorporated association of individuals.

Chapter not to apply in certain cases.

2 of 1934.

(2) For the removal of doubts, it is hereby declared that the firms and unincorporated associations of individuals referred to in sub-section (1) shall continue to be governed by the provisions of Chapter IIIC of the Reserve Bank of India Act, 1934.

30. The National Housing Bank may, if it considers necessary in the public interest so to do, by general or special order,—

National Housing Bank to regulate or prohibit issue of prospectus or advertisement soliciting deposits of money.

(a) regulate or prohibit the issue by any housing finance institution of any prospectus or advertisement soliciting deposits of money from the public; and

(b) specify the conditions subject to which any such prospectus or advertisement, if not prohibited, may be issued.

31. (1) The National Housing Bank may at any time direct that every housing finance institution accepting deposits shall furnish to the National Housing Bank in such form, at such intervals and within such time, such statements, information or particulars relating to or connected with deposits received by the housing finance institution, as may be specified by the National Housing Bank by general or special order.

Power of National Housing Bank to collect information from housing finance institutions as to deposits and to give directions.

(2) Without prejudice to the generality of the power vested in the National Housing Bank under sub-section (1), the statements, information or particulars to be furnished under sub-section (1), may relate to all or any of the following matters, namely, the amount of the deposits, the purposes and periods for which, and the rates of interest and other terms and conditions on which, such deposits are received.

(3) The National Housing Bank may, if it considers necessary in the public interest so to do, give directions to housing finance institutions accepting deposits either generally or to any group of housing finance institutions accepting deposits, and in particular, in respect of any matters relating to, or connected with, the receipt of deposits, including the rates of interest payable on such deposits, and the periods for which deposits may be received.

(4) If any housing finance institution, accepting deposits fails to comply with any direction given by the National Housing Bank, under

sub-section (3), the National Housing Bank may prohibit the acceptance of deposits by that housing finance institution.

(5) Every housing finance institution receiving deposits, shall, if so required by the National Housing Bank and within such time as the National Housing Bank may specify, cause to be sent at the cost of the housing finance institution, a copy of its annual balance-sheet and profit and loss account or other annual accounts to every person from whom the housing finance institution holds, as on the last day of the year to which the accounts relate, deposits higher than such sum as may be specified by the National Housing Bank.

Duty of housing finance institutions to furnish statements, etc., required by National Housing Bank.

32. Every housing finance institution shall furnish the statements, information or particulars called for, in such form as may be prescribed and to comply with any direction given to it, under the provisions of this Chapter.

Powers and duties of auditors.

33. (1) The auditor of every housing finance institution shall enquire whether or not the housing finance institution has furnished to the National Housing Bank such statements, information or particulars relating to or connected with deposits received by it, as are required to be furnished under this Chapter, and the auditor shall, except where he is satisfied on such enquiry that the housing finance institution has furnished such statements, information or particulars, make a report to the National Housing Bank giving the aggregate amount of such deposits held by the housing finance institution.

(2) Where, in the case of a housing finance institution, being a company, the auditor has made, or intends to make a report to the National Housing Bank under sub-section (1), he shall include in his report under sub-section (2) of section 227 of the Companies Act, 1956, the contents of the report which he has made, or intends to make, to the National Housing Bank.

1 of 1956.

Inspection.

34. (1) The National Housing Bank may, at any time, cause an inspection to be made by one or more of its officers or employees or other persons (hereafter in this section referred to as the inspecting authority) of any housing finance institution accepting deposits, for the purpose of verifying the correctness or completeness of any statement, information or particulars furnished to the National Housing Bank or for the purpose of obtaining any information or particulars which the housing finance institution has failed to furnish on being called upon to do so.

(2) It shall be the duty of every director or member of any committee or other body or any person for the time being vested with the management of the whole or part of the affairs of every housing finance institution accepting deposits or other officer or employee

thereof to produce to the inspecting authority all such books, accounts and other documents in his custody or power and to furnish that authority with any statement and information relating to the business of the institution as that authority may require of him, within such time as may be specified by that authority.

(3) The inspecting authority may examine on oath any director or member of any committee or body or any other person for the time being vested with the management of the affairs of the housing finance institution, accepting deposits, or any officer or employee thereof, in relation to its business.

35. No person shall solicit on behalf of any housing finance institution either by publishing or causing to be published any prospectus or advertisement or in any other manner deposits of money from the public unless—

Deposits not to be solicited by unauthorised persons.

(a) he has been authorised in writing by the said housing finance institution to do so and specifies the name of the institution which has so authorised him; and

(b) the prospectus or advertisement complies with any order made by the National Housing Bank under section 30 and with any other provision of law for the time being in force applicable to the publication of such prospectus or advertisement.

36. The provisions of this Chapter shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any such law.

Chapter V to override other laws.

CHAPTER VI

FUNDS, ACCOUNTS AND AUDIT

37. (1) With effect from such date as the Reserve Bank may specify, the National Housing Bank shall establish a fund to be called the General Fund and all payments by the National Housing Bank shall be made out of the said General Fund.

General Fund and other funds.

(2) The Board may, and shall, if so directed by the Reserve Bank, create a special fund or a reserve fund or such other funds as may be prescribed.

38. (1) The balance sheet and accounts of the National Housing Bank shall be prepared and maintained in such form and manner as may be prescribed.

Preparation of balance sheet, etc., of National Housing Bank.

(2) The Board shall cause the books and accounts of the National Housing Bank to be balanced and closed as on the thirtieth day of June, each year.

39. After making provision for bad and doubtful debts, depreciation of assets and all other matters for which provision is necessary or expedient or which is usually provided for by bankers, the National Housing Bank shall transfer—

Disposal of surplus.

(i) for a period of fifteen years, following the accounting year during which the National Housing Bank is established, the amount

remaining (hereafter in this section referred to as surplus) such of the funds referred to in section 37 as the Reserve Bank may specify; and

(ii) after the expiry of the said period of fifteen years, the National Housing Bank shall, after making provision for the funds referred to in section 37, transfer the balance of surplus to the Reserve Bank.

Audit.

40. (1) The accounts of the National Housing Bank shall be audited by auditors duly qualified to act as auditors under sub-section (1) of section 226 of the Companies Act, 1956, who shall be appointed by the Reserve Bank, for such term and on such remuneration as the Reserve Bank may fix.

1 of 1956.

(2) The auditors shall be supplied with a copy of the annual balance sheet of the National Housing Bank and it shall be their duty to examine it together with the accounts and vouchers relating thereto and they shall have a list delivered to them of all books kept by the National Housing Bank and shall at all reasonable times have access to the books, accounts, vouchers and other documents of the National Housing Bank.

(3) The auditors may, in relation to the accounts of the National Housing Bank, examine any director of the Board or any officer or other employee of the National Housing Bank and shall be entitled to require from the Board or officers or other employees of the National Housing Bank such information and explanation as they may think necessary for the performance of their duties.

(4) The auditors shall make a report to the National Housing Bank upon the annual balance sheet and accounts examined by them and in every such report, they shall state whether in their opinion the balance sheet is a full and fair balance-sheet containing all necessary particulars and properly drawn up so as to exhibit a true and fair view of the state of affairs of the National Housing Bank and in case they had called for any explanation or information from the Board or any officer or other employee of the National Housing Bank, whether it was given and whether it was satisfactory.

(5) The National Housing Bank shall furnish to the Central Government and the Reserve Bank within three months from the date on which the annual accounts of the National Housing Bank are closed and balanced, a copy of its balance sheet as on the close of the relevant year together with a copy of the profit and loss account for the year and a copy of the auditors' report and a report of the working of the National Housing Bank during that year, and the Central Government shall, as soon as may be after they are received by it, cause the same to be laid before each House of Parliament.

(6) Without prejudice to anything contained in the preceding subsections, the Central Government may, at any time, appoint the Comptroller and Auditor-General of India to examine and report upon the accounts of the National Housing Bank and any expenditure incurred by him in connection with such examination and report shall be payable by the National Housing Bank to the Comptroller and Auditor-General of India.

41. The National Housing Bank shall furnish, from time to time, to the Reserve Bank such information and returns as the Reserve Bank may require.

Returns.

42. The National Housing Bank shall make an annual report to the Central Government and the Reserve Bank on the trend and progress of housing in the country and in that report may make such suggestions as it may think necessary or expedient for the development of housing and the Central Government shall, as soon as may be after the report is received by it, cause the same to be laid before each House of Parliament.

Annual report on housing.

CHAPTER VII

MISCELLANEOUS

43. (1) The National Housing Bank may appoint such number of officers and other employees as it considers necessary or desirable for the efficient performance of its functions and determine the terms and conditions of their appointment and service.

Staff of National Housing Bank.

(2) The duties and conduct, terms and conditions of service and the establishment and maintenance of provident fund or any other fund for the benefit of the officers and other members of staff of the National Housing Bank shall be such as may be prescribed.

(3) The National Housing Bank may depute any officer or any member of its staff for such period and on such terms and conditions as it may determine, to any institution including a housing finance institution.

(4) Nothing contained in this section shall empower the National Housing Bank to depute any officer or member of its staff to any institution on any salary, emoluments or other terms and conditions which is or are less favourable to him than that or those to which he is entitled to immediately before such deputation.

2 of 1934.

(5) The National Housing Bank may, without prejudice to the provisions of section 54AA of the Reserve Bank of India Act, 1934, receive or take on deputation any officer or other employee from any institution including a housing finance institution for such period and on such terms and conditions as it may think necessary in the interest of the National Housing Bank.

44. (1) The National Housing Bank shall not, except as otherwise required by this Act or any other law, divulge any information relating to, or to the affairs of, its constituents except in circumstances in which it is, in accordance with the law or practice and usage customary among bankers, necessary or appropriate for the National Housing Bank to divulge such information.

Obligation as to fidelity and secrecy.

(2) Every director, member of a committee, auditor, advisor, officer or other employee of the National Housing Bank or of the Reserve Bank, whose services are utilised by the National Housing Bank under the provisions of this Act, shall, before entering upon his duties, make a declaration of fidelity and secrecy in the form set out in the First Schedule to this Act.

Defects
in
appoint-
ment
not to
invali-
date
acts,
etc.

45. (1) No act or proceeding of the Board or of any committee of the National Housing Bank shall be questioned on the ground merely of the existence of any vacancy in, or defect in the constitution of, the Board or the committee, as the case may be.

(2) No act done by any person acting in good faith as a director of the Board or as a member of a committee of the National Housing Bank shall become invalid merely on the ground that he was disqualified to be a director or that there was any other defect in his appointment.

Protec-
tion of
action
taken
under
the Act.

46. No suit or other legal proceeding shall lie against the National Housing Bank or any director or any officer or other employee of the National Housing Bank or any other person authorised by the National Housing Bank to discharge any functions under this Act for any loss or damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or of any other law or provision having the force of law.

Indem-
nity of
direc-
tors.

47. (1) Every director shall be indemnified by the National Housing Bank against all losses and expenses incurred by him in, or in relation to, the discharge of his duties, except such as are caused by his own wilful act or default.

(2) A director shall not be responsible for any other director or for any officer or other employee of the National Housing Bank or for any loss or expenses resulting to the National Housing Bank from the insufficiency or deficiency of the value of, or title to, any property or security acquired or taken on behalf of the National Housing Bank or the insolvency or wrongful act of any debtor or any person under obligation to the National Housing Bank or anything done in good faith in the execution of the duties of his office in relation thereto.

Exemp-
tion
from
tax on
income.

48. Notwithstanding anything contained in the Income-tax Act, 1961, or any other enactment for the time being in force relating to tax on income, profits or gains, the National Housing Bank shall not be liable to pay income-tax or any other tax in respect of its income, profits or gains derived.

43 of 1961.

Penal-
ties.

49. (1) Whoever in any return, balance sheet, or other document or in any information required or furnished by or under or for the purposes of any provision of this Act, wilfully makes a statement which is false in any material particular, knowing it to be false, or wilfully omits to make a material statement, shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

(2) If any person fails to produce any book, account or other document, or to furnish any statement or information which, under the provisions of this Act, it is his duty to produce or furnish, he shall be punishable with fine which may extend to two thousand rupees in respect of each offence and in the case of a continuing failure, with an additional fine which may extend to one hundred rupees for every day during which the failure continues after conviction for the first such failure.

(3) If any person—

(a) receives any deposit in contravention of any direction given or order made under Chapter V; or

(b) issues any prospectus or advertisement otherwise than in accordance with section 35 or any order made under section 30, as the case may be;

he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine which may extend—

(i) in the case of a contravention falling under clause (a), to twice the amount of deposit received; and

(ii) in the case of a contravention falling under clause (b), to twice the amount of the deposit called for by the prospectus or advertisement.

(4) If any other provision of this Act is contravened or if any default is made in complying with any other requirement of this Act, or of any order, regulation or direction made or given or condition imposed thereunder, any person guilty of such contravention or default shall be punishable with fine which may extend to two thousand rupees and where a contravention or default is a continuing one with further fine which may extend to one hundred rupees for every day, after the first, during which the contravention or default continues.

50. (1) Where an offence has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences
by Com-
panies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

Cogni-
zance of
offences.

51. (1) No court shall take cognizance of any offence punishable under this Act except upon a complaint in writing made by an officer of the National Housing Bank, generally or specially authorised in writing in this behalf by the National Housing Bank, and no court other than that of a Metropolitan Magistrate or a Judicial Magistrate of the first class or a court superior thereto shall try any such offence.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, a Magistrate may, if he sees reason so to do, dispense with the personal attendance of the officer of the National Housing Bank filing the complaint but the Magistrate may in his discretion, at any stage of the proceedings, direct the personal attendance of the complainant.

2 of 1974.

Applica-
tion of
fine.

52. A court imposing any fine under this Act may direct that the whole or any part thereof shall be applied in, or towards payment of, the cost of the proceedings.

Bankers'
Books
Evidence
Act
18 of
1891, to
apply in
relation
to Na-
tional
Housing
Bank.

53. The Bankers' Books Evidence Act, 1891, shall apply in relation to the National Housing Bank as if it were a bank as defined in section 2 of that Act.

Liquida-
tion of
National
Housing
Bank.

54. No provision of law relating to the winding up of companies shall apply to the National Housing Bank and the National Housing Bank shall not be placed in liquidation save by order of the Central Government and in such manner as it may direct.

Power of
the
Board to
make
regula-
tions.

55. (1) The Board may, with the previous approval of the Reserve Bank and in consultation with the Central Government, by notification, make regulations not inconsistent with this Act to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the fees and allowances that may be paid to the directors for attending the meetings of the Board or its committees under sub-section (5) of section 7;

(b) the times and places at which the Board may meet, and the rules of procedure that may be followed in regard to the transaction of business under sub-section (1) of section 11;

(c) the number of members that the Executive Committee may consist, the functions that it may discharge and times and places at which it shall meet and the rules of procedure that it may follow in the transaction of business under section 12;

(d) the manner and terms of issue and redemption of bonds and debentures under clause (a) of sub-section (1) of section 15;

(e) the manner in which and the conditions subject to which the National Housing Bank may borrow in foreign currency under sub-section (1) of section 16;

(f) the form in which the statements, information, etc., is to be furnished under section 32;

(g) the special fund, reserve fund and other funds to be created under sub-section (2) of section 37;

(h) the form and manner in which the balance sheet and accounts shall be prepared and maintained under sub-section (1) of section 38;

(i) the duties and conduct, salaries, allowances and conditions of service of the officers and other members of staff of the National Housing Bank under section 43;

(j) the establishment and maintenance of provident fund and any other fund for the benefit of officers and other members of staff of the National Housing Bank under section 43; and

(k) any other matter which is to be, or may be, prescribed.

(3) Any regulation which may be made by the Board under this Act may be made by the Reserve Bank, in consultation with the Central Government, before the expiry of three months from the date of establishment of the National Housing Bank, and any regulation so made may be altered and rescinded by the Board in the exercise of its powers under this Act.

(4) The power to make regulations conferred by this section shall include the power to give retrospective effect to the regulations or any of them from a date not earlier than the date of commencement of this Act, but no retrospective effect shall be given to any regulation so as to prejudicially affect the interests of any person to whom such regulation may be applicable.

(5) The Central Government shall cause every regulation made under this Act to be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.

56. The enactments specified in the Second Schedule to this Act shall be amended in the manner provided therein and unless otherwise provided in that Schedule, such amendments shall take effect on and from the date or establishment of the National Housing Bank under section 3.

Amend-
ment of
certain
enact-
ments.

Power to
remove
diffi-
culties.

57. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of three years from the commencement of this Act.

THE FIRST SCHEDULE

[See section 44 (2)]

DECLARATION OF FIDELITY AND SECRECY

I,..... do hereby declare that I will faithfully, truly and to the best of my skill and ability execute and perform the duties required of me as director, member of the committee, auditor, advisor, officer or other employee (as the case may be) of the National Housing Bank and which properly relate to the office or position held by me in or in relation to the said National Housing Bank.

I further declare that I will not communicate or allow to be communicated to any person not legally entitled thereto any information relating to the affairs of the National Housing Bank nor will I allow any such person to inspect or have access to any books or documents belonging to or in the possession of the National Housing Bank and relating to the business of the said National Housing Bank or the business of any person having any dealing with the said National Housing Bank.

Signed before me.

(Signature)

THE SECOND SCHEDULE

(See section 56)

AMENDMENTS TO CERTAIN ENACTMENTS

PART I

AMENDMENTS TO THE RESERVE BANK OF INDIA ACT, 1934

(2 of 1934)

AMENDMENTS

1. In section 2, after clause (ccc), the following clause shall be inserted, namely:—

“(cccc) ‘National Housing Bank’ means the National Housing Bank established under section 3 of the National Housing Bank Act, 1967;”.

2. In section 17,—

(i) after clause (4D), the following clause shall be inserted, namely:—

“(4DD) the making to the National Housing Bank of loans and advances and generally assisting the National Housing Bank in such manner and on such terms as may be determined by the Central Board;”;

(ii) after clause (4G), the following clause shall be inserted, namely:—

“(4GG) the making of loans and advances to, and the purchasing of bonds and debentures of, the National Housing Bank out of the National Housing Credit (Long Term Operations) Fund established under section 46D;”;

(iii) after clause (8A), the following clause shall be inserted, namely:—

“(8AA) the promoting, establishing, supporting or aiding in the promotion, establishment and support of any financial institution, whether as its subsidiary or otherwise;”.

3. In the *Explanation* to sub-section (1) of section 42, in sub-clause (ii) of clause (c), after the words “or from the Reconstruction Bank”, the words “or from the National Housing Bank” shall be inserted.

4. After section 46C, the following section shall be inserted, namely:—

“46D. (1) The Bank shall establish and maintain a Fund to be known as the National Housing Credit (Long Term Operations) Fund to which shall be credited every year such sums of money as it may consider necessary.

National
Housing
credit
(Long
Term
operations)
Fund.

(2) The amount in the said Fund shall be applied by the Bank only to the following objects, namely:—

(a) the making to the National Housing Bank of loans and advances for the purpose of any business of the National Housing Bank;

(b) the purchasing of bonds and debentures issued by the National Housing Bank.”.

PART II

AMENDMENTS TO THE BANKING REGULATION ACT, 1949

(10 of 1949)

AMENDMENTS

1. In section 5, after clause (ffc), the following clause shall be inserted, namely:—

“(ffd) “National Housing Bank” means the National Housing Bank established under section 3 of the National Housing Bank Act, 1987;”.

2. In sub-section (1) of section 18, in the *Explanation*, in sub-clause (ii) of clause (a), after the words "or from the Reconstruction Bank", the words "or from the National Housing Bank" shall be inserted.

3. In section 34A, in sub-section (3), after the words "the Reconstruction Bank", the words "the National Housing Bank" shall be inserted.

4. In section 36AD, in sub-section (3), after the words "the Reconstruction Bank", the words "the National Housing Bank" shall be inserted.

5. In section 56, under clause (j), in the *Explanation*, in sub-clause (ii) of clause (a), after the words "the Reconstruction Bank", the words "the National Housing Bank" shall be inserted.

PART III

AMENDMENT TO THE INDUSTRIAL DISPUTES ACT, 1947

(14 OF 1947)

AMENDMENT

In section 2, in clause (a), in sub-clause (i), after the words "the Industrial Reconstruction Bank of India", the words and figures "the National Housing Bank established under section 3 of the National Housing Bank Act, 1987" shall be inserted.

PART IV

AMENDMENT TO THE PAYMENT OF BONUS ACT, 1965

(21 OF 1965)

AMENDMENT

In section 32, after sub-clause (f) of clause (ix), the following sub-clause shall be inserted, namely:—

"(ff) the National Housing Bank;".

C. RAMAN MENON,

Additional Secy. to the Govt. of India.